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From: Stein, Mark
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From: Dain, Gregory
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To: Stein, Mark
Subject: EPA Urged to Revise Cost-Benefit Estimates On Power Plant Proposed Effluent Guidelines

Water Pollution

EPA Urged to Revise Cost-Benefit Estimates On Power Plant Proposed Effluent Guidelines

By Amena H. Saiyid

Representatives of the electric power industry and the Small Business Administration urged the Environmental Protection Agency at a hearing to revise the cost-benefit analysis for proposed effluent guidelines regulating discharges of toxic pollutants generated by oil, natural gas, coal, and nuclear power plants.

Meanwhile, environmental advocates at the July 9 hearing asked EPA to adopt the most stringent effluent limits for power plants that would result in zero discharges of all wastewater effluent.

The proposed rule, published in June, stems in part from the widespread implementation of air pollution controls that EPA says has altered existing waste streams or created wastewater streams at many plants. Treatment processes have led to more waste going into the waters, according to the agency.

At the hearing, Kristy Bulleit, a Hunton & Williams attorney representing the Utility Water Act Group, told the agency that EPA has underestimated the cost of removing a single pound of bottom ash from wastewater in the proposed rule.

Moreover, Bulleit said EPA has mischaracterized pollutant loading from the industry, particularly for bottom ash.

Kevin Bromberg, assistant chief counsel for environmental policy at the Small Business Administration Office of Advocacy, raised the same point during his testimony at the hearing.

Based on what the SBA Office of Advocacy termed preliminary observations of the cost-benefit analysis, Bromberg said that EPA has overestimated the bottom ash removal efficiencies of power plants by a factor of 10.

EPA signed off on the proposed effluent guidelines for power plants on April 19 and published them on June 7, as part of a court-approved settlement with environmental groups. Under that same agreement, EPA has to finalize the effluent guidelines by May 22, 2014 (Defenders of Wildlife v. Jackson, D.D.C., No. 1:10-cv-01915, 12/10/12; 78 Fed. Reg. 34,543; 110 DEN A-2, 6/7/13) Proposal Addresses Discharges

The proposed rule would address discharges of toxic pollutants including mercury, selenium, zinc, and phosphorus from 1,200 power plants nationwide, as well as from any new plants coming online.

EPA proposed eight options, including four preferred ones that differ in the number of waste streams covered, the size of the units controlled, and the stringency of the treatment controls to be imposed.

The proposed requirements would apply to discharges of wastewater associated with flue gas desulfurization, fly ash, bottom ash, combustion residual leachate, flue gas mercury control, non-chemical metal cleaning wastes, and gasification of fuels such as coal and petroleum coke.

EPA said that many of the wastes were the result of air regulations.

As part of this rulemaking, EPA also floated the idea of excluding small power plants from regulation. The agency also sought comment on whether to require existing utilities that generate less than 50 megawatts to use best practicable available technology for waste streams.

Bromberg said the SBA Office of Advocacy supports excluding small utilities because the cost to achieve zero discharges from fly ash and bottom ash ponds would be cost prohibitive for them.

While EPA said the impact on small utilities would be minimal, Bromberg said, the agency did not convene a panel for small businesses to evaluate the impact.

During her testimony, Theresa Pugh, director of environmental services at the American Public Power Association, agreed with Bromberg that EPA should have convened a panel to assess the impact on small businesses.

Industry Said in Transition

Both Bulleit and Pugh thanked EPA for extending the comment period from Aug. 5 to Sept. 30, but Bulleit urged the agency to ensure that the final rule has reasonable deadlines and expectations for compliance.

She reminded EPA that the power industry is in the process of transitioning from a largely coal-fired to a natural gas-fired fleet.

Pugh said APPA would like to see the final rule give some consideration to the lifetime of a plant, as many of the power plants are nearing the end of their feasible lifetimes.

In contrast, dozens of environmental advocates told EPA that 30 years is too long a time for an industry to be allowed to discharge with impunity.

Mary Ann Hitt, director of Sierra Club's Beyond Coal campaign, said EPA should set a standard that requires dry handling of coal ash and moves away from settling ponds that do nothing to clean up the waste.

She, along with other advocates, called on EPA to adopt options four and five, which require dry handling of fly ash and bottom ash, chemical precipitation and biological treatment of scrubber waste, and chemical precipitation of metal cleaning wastes. These options were one of EPA's four preferred options.

Hole in Ground' Not an Option

Craig Segall, a Sierra Club staff attorney, said a hole in the ground is not an option.

Ariel Solaski, an Environmental Integrity Project law clerk, told EPA that the proposed rule is needed because state permitting agencies in the absence of a federal standard routinely allow power plants to discharge unlimited amounts of toxic pollutants into the nation's waters.

Nearly 70 percent of coal plants that dump coal ash and scrubber wastewater into our waters have no limits on arsenic, boron, cadmium, lead, mercury, and selenium, Solaski said. Only a little over half of these plants are required to monitor and report discharges of this pollution.

Patricia Schuba, president of the Missouri-based Labadie Environmental Organization, called on EPA to institute a strong effluent guidelines rule coupled with a strong coal combustion rule.

EPA has sought comment on whether to align the effluent guidelines for power plants with a related rule for coal combustion residuals that it proposed in 2010 under the Resource Conservation and Recovery Act (216 DEN A-16, 11/10/10).

Schuba said she fears that EPA may end up regulating coal combustion residuals as non-hazardous materials under Subtitle D of RCRA instead of as hazardous substances under Subtitle C of the law, triggering more stringent storage requirements.

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